

REMARKS

Claims 1-53 are pending. By this Reply, claims 2, 6, 20-22, 24 and 37 have been canceled, and claim 54 has been added. Accordingly, claims 1, 3-5, 7-19, 23, 25-36 and 38-54 are currently at issue.

In Paragraph 1 of the Office Action, the Examiner objected to the Specification at page 5, line 3 as well as page 5, line 20. Applicant has made amendments based on the Examiner's recommendation and submits that the amendments address the objections.

In paragraph 2 of the Office Action, the Examiner rejected claim 13 because of an informality. Applicant has made an amendment based on the Examiner's recommendation and submits that the amendment addresses the rejection.

The Examiner rejected claims 1-5, 8, 16-21, 31-34, and 36 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,400,473 to Delman ("Delman"). The Examiner also rejected claims 1-31 and 36-47 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,450,063 to Harvey et al. ("Harvey").

The Examiner further rejected claim 35 and claims 48-50 under 35 U.S.C. §103(a) as being obvious over Delman in view of U.S. Patent No. D497,304 to Stoll et al. ("Stoll"). The Examiner rejected claims 32-35 and claims 48-53 under 35 U.S.C. 103(a) as being obvious over Harvey in view of Stoll.

Applicant respectfully traverses these rejections with respect to the claims as amended.

35 U.S.C. §102 Rejections

The Examiner rejected claims 1-5, 8, 16-21, 31-34, and 36 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,400,473 to Delman ("Delman").

Independent claim 1 is directed to an operator for a rotatable spindle, the operator including a hub, a handle, and a leaf spring. Claim 1 requires, among other things, that a leaf spring is connected to the handle, the leaf spring positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. As shown in FIGS. 2A - 4A, one surface of the leaf spring 76 confronts the bottom surface 54 of the base 50, and an opposite surface of the leaf spring 76 generally confronts the arm 32 of the hub.

Delman fails to disclose a leaf spring as claimed. The spring in Delman is not positioned to confront both a surface of the handle and the arm. The spring in Delman is also not positioned between sidewalls. Rather, the spring in Delman is located at the underside of the cap member, which sits below the crank arm. Thus, the spring in Delman cannot be positioned between sidewalls of the handle. Also, the spring in Delman is in contact with a tab member when in use, however, the spring confronts nothing when not in use. As Delman does not disclose each and every element of claim 1, Delman cannot anticipate claim 1. Furthermore, Delman does not suggest a leaf spring as claimed and, therefore, cannot establish a prima facie case of obviousness with respect to claim 1. Accordingly, Applicant submits that claim 1 is patentably distinct over Delman.

Independent claim 16 requires, among other things, that the leaf spring is connected to the handle, the leaf spring positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. For the same reasons as stated above with respect to claim 1, Applicant submits that claim 16 is patentably distinct over Delman.

Independent claim 31 requires, among other things, that the leaf spring is connected to the handle and confronting the arm, the leaf spring positioned between the sidewalls, the leaf spring having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. For the same reasons as stated above with respect to claim 1, Applicant submits that claim 31 is patentably distinct over Delman.

Claims 2-5 and 8 depend from claim 1 and include all of the limitations of claim 1. Claims 17-21 depend from claim 16 and include all of the limitations of claim 16. Claims 32-34 and 36 depend from claim 31 and include all of the limitations of claim 31. For the reasons stated with respect to claims 1, 16, and 31, Applicant submits claims 2-5, 8, 17-21, 32-34, and 36 are patentably distinct over Delman.

The Examiner rejected claims 1-31 and 36-47 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,450,063 to Harvey et al. ("Harvey").

Independent claim 1 requires, among other things, that a leaf spring is connected to the handle, the leaf spring positioned between the sidewalls and having a surface generally

confronting the bottom surface of the base and an opposite surface generally confronting the arm.

Harvey also fails to disclose a spring positioned in this matter. The spring in Harvey is not positioned so that one surface confronts the handle and an opposite surface confronts the arm of the hub. Instead, the spring in Harvey is positioned between a projection and a detent on a mounting block. Thus, the spring is positioned away from the bottom of the handle. As Harvey does not disclose each and every element of claim 1, Harvey cannot anticipate claim 1. Furthermore, Harvey does not suggest a leaf spring as claimed and, therefore, cannot establish a prima facie case of obviousness with respect to claim 1. Accordingly, Applicant submits that claim 1 is patentably distinct over Harvey.

Independent claim 16 requires, among other things, that the leaf spring is connected to the handle, the leaf spring positioned between the sidewalls and having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. For the same reasons as stated above with respect to claim 1, Applicant submits that claim 16 is patentably distinct over Harvey.

Independent claim 31 requires, among other things, that the leaf spring is connected to the handle and confronting the arm, the leaf spring positioned between the sidewalls, the leaf spring having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. For the same reasons as stated above with respect to claim 1, Applicant submits that claim 31 is patentably distinct over Harvey.

Independent claim 43 requires, among other things, that the leaf spring is connected to the handle and confronting the arm, the leaf spring having a hole, the leaf spring received by the slots and the hole receiving the peg, the leaf spring having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. For the same reasons as stated above with respect to claim 1, Applicant submits that claim 43 is patentably distinct over Harvey. In addition, the spring in Harvey is not received in slots of the handle as required by claim 43. For this additional reason, claim 43 is patentable distinct over Harvey.

Claims 1-15 depend from claim 1 and include all of the limitations of claim 1. Claims 17-30 depend from claim 16 and include all of the limitations of claim 16. Claims 36-42 depend

from claim 31 and include all of the limitations of claim 31. Claims 44-47 depend from claim 43 and include all of the limitations of claim 43. For the reasons stated with respect to claims 1, 16, 31, and 43, Applicant submits claims 2-15, 27-30, 36-42, and 44-47 are patentably distinct over Harvey.

35 U.S.C. §103 Rejections

The Examiner further rejected claim 35 and claims 48-50 under 35 U.S.C. §103(a) as being obvious over Delman in view of U.S. Patent No. D497,304 to Stoll et al. ("Stoll").

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all of the claim limitations. The examiner bears the initial burden on factually supporting any *prima facie* conclusion of obviousness. See MPEP § 2142; *In re Vaeck*, 20 USPQ.2d 1438 (Fed. Cir. 1991).

As an initial ground for overcoming the rejection, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Delman and Stoll as suggested by the Examiner. Even though both patents are directed to folding casement window handles, the Examiner has still failed to cite to a specific disclosure in either reference that would have given one the motivation to combine them as proposed by the Examiner. As claimed, the leaf spring generally confronts the bottom of the base. As neither Delman nor Stoll discloses a spring generally confronting the bottom of the base, there is no motivation to modify the references and, therefore, they are not properly combinable. Consequently, the proposed combination cannot establish a *prima facie* case of obviousness with respect to the claims.

Furthermore, claim 35 depends indirectly from claim 31. For the reasons stated above with respect to claim 31, claim 35 is patentably distinct over Delman and Stoll.

Claims 48-50 are generally directed to an operator for a rotatable spindle for a casement window. The operator comprises a cover, a hub, and a handle. The cover has a cover body with an opening configured for passage of a window spindle, and an outer recess formed of generally

opposed sidewalls with an open terminal end of the recess. The hub has a receiver configured for connection to a window spindle and having an arm extending radially outward of the receiver. The handle is pivotally connected to the hub at a hinge axis and having a knob positioned on the handle opposite the hub connection, the handle being movable relative said cover between a use configuration extending away from the cover, to a storage configuration wherein an extent of the knob is positioned within the recess and a gripping portion of the knob is exposed within the recess at the recess open end.

As an initial ground for overcoming the rejection, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Delman and Stoll as suggested by the Examiner. Even though both patents are directed to folding casement window handles, the Examiner has failed to cite to a specific disclosure in either reference that would have given one the motivation to combine them as proposed by the Examiner. Specifically, Delman has no suggestion to provide a recess as claimed in Stoll. In FIG. 2, Delman shows a knob positioned outside the housing and makes no suggestion to contain a recess to receive the knob. Thus, the references are not properly combinable. Applicant submits that claims 48-50 are patentably distinct over Delman and Stoll.

The Examiner rejected claims 32-35 and claims 48-53 under 35 U.S.C. 103(a) as being obvious over Harvey in view of Stoll. As an initial ground for overcoming the rejection, Applicant respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Harvey and Stoll as suggested by the Examiner. Again, while both patents are directed to folding casement window handles, the Examiner has failed to cite a specific disclosure in either reference that would have given one the motivation to combine them as proposed by the Examiner.

Claims 32-35 depend from Claim 31. Claim 31 requires, among other things, a leaf spring that is connected to the handle and confronting the arm, the leaf spring positioned between the sidewalls, the leaf spring having a surface generally confronting the bottom surface of the base and an opposite surface generally confronting the arm. Thus, for the same reasons argued with respect to claim 31, claims 32-35 are patentably distinct over the cited art. Consequently,

the proposed combination cannot establish a *prima facie* case of obviousness with respect to the claims.

Claims 48-53 were also rejected as being obvious over Harvey in view of Stoll. As an initial ground for overcoming the rejection, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Harvey and Stoll as suggested by the Examiner. Specifically, there is no suggestion in Harvey that would suggest or motivate one in the art to provide a recess as claimed in Stoll. Thus, the references are not properly combinable. Applicant submits that claims 48-42 are patentably distinct over Harvey and Stoll.

Applicant has added new claim 54. Similar to claim 1, claim 54 requires, among other things, a leaf spring positioned between the pair of sidewalls and received by a pair of slots, the leaf spring generally confronting the bottom surface of the base of the handle near the first end of the handle. Because the cited prior art does not disclose a leaf spring as claimed, Applicant submits that claim 54 is patentably distinct over prior art.

CONCLUSION

In light of the above amendments and remarks, Applicant submits that the pending claims are now in condition for allowance. Reconsideration of these claims is respectfully requested.

If it would expedite the progress of this application through the examination process, the Examiner is requested to call the undersigned attorney.

Respectfully submitted,


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